IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 8300 of 2007(K)

PETITIONER:

K.M.SAINABA, M/S.VUS, TIMBERS,
PUTHUPADY P.O., MOOVATTUPUZHA.

BY ADV. SRI.C.V.MANU VILSAN

RESPONDENTS:
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1. **DEPUTY COMMISSIONER, COMMERCIAL TAXES, KOLLAM.**

2. **INTELLIGENCE OFFICER, KOLLAM.**

3. **INSPECTING ASST.COMMISSIONER, DEPARTMENT OF COMMERCIAL TAXES, MOOVATTUPUZHA.**

BY SR.GOVT.PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.8300/2007 K

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ORDER NO.IBK/C187/05-06/02-03/CCR68/06-07 DTD. 10/11/2006.**

EXT.P2; **COPY OF THE APPEAL AGAINST THE ORDER NO.IBK/C187/05-06/ 02-03/CCR68/06-07 DTD. 1/12/06.**

EXT.P3: **COPY OF THE STAY PETITION FOR 2002-03.**

EXT.P4: **COPY OF THE RR NOTICE UNDER SECTION 7 OF THE RR ACT VIDE RR NO.49/06-07.**

EXT.P5: **COPY OF THE INTERIM ORDER IN WP(C) NO.5129/2007.**

EXT.P6: **COPY OF THE ORDER NO.STA.(R) 1178/2007 DTD.01/03/2007.**

/TRUE COPY/

KSS

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 8300 OF 2007-K

JUDGMENT

The petitioner challenges Ext.P6 interim order. It is an order passed on a stay application filed by her along with Ext.P2 appeal. According to her, the interim order has been passed mechanically without application of mind and considering the merits of her case. If the case was considered on merit, the appellate authority would have granted interim order on more liberal terms, it is submitted.

2. I heard the learned Government Pleader for the respondents also. Going by the materials produced in this writ petition and hearing the submissions of both sides, it is clear that turnover to the extent of Rs.79 lakhs is not covered by Form 18 declaration. Therefore, there will be some tax liability due from the petitioner, even assuming all other contentions raised by her are accepted. So, the claim of the petitioner for absolute stay cannot be granted. But, it is ordered that the petitioner may pay 40% of the amount demanded within two weeks from today and furnish security for the balance amount. In that event, further recovery pursuant to Ext.P1 order will be kept in abeyance till the disposal of Ext.P2 appeal. The petitioner

shall co-operate with the appellate authority for the disposal of the appeal. If adjournments are sought without valid grounds, the appellate authority shall proceed to hear the appeal without allowing such requests. The appellate authority may endeavour to hear and dispose of the appeal at the earliest. All the contentions of the petitioner in the appeal are kept open.

The Writ Petition is disposed of as above.

14th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/